

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,	:	Case No. 3:07-cr-205
		Also 3:16-cv-2
Plaintiff,	:	
	:	
- vs -	:	District Judge Thomas M. Rose
	:	Magistrate Judge Michael R. Merz
	:	
EDWIN ARTHUR AVERY,	:	
	:	
Defendant.	:	

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (ECF No. 56), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

Accordingly, it is hereby ORDERED that Defendant's Second § 2255 Motion (ECF No. 48) be DISMISSED with prejudice. Defendant is DENIED any requested certificate of appealability and the Court hereby certifies to the United States Court of Appeals that an appeal would be objectively frivolous and therefore should not be permitted to proceed *in forma pauperis*.

January 19, 2017.

*s/Thomas M. Rose

Thomas M. Rose
United States District Judge